

## **EXHIBIT A**

### **GENERAL TERMS AND CONDITIONS FOR THE PURCHASE AND SALE OF PRODUCTS**

1. **Incorporated Terms and Conditions.** The following terms and conditions (the “Terms”) apply to any Purchase Order, Evaluation or Pricing Agreement to which they are attached (the “Agreement”).
2. **Vendor Invoices.** Upon receipt of a Purchase Order, Vendor will invoice Johns Hopkins for any amounts due therein. Vendor’s invoices must contain the relevant Purchase Order number(s) and any Invoice that fails to contain such information shall be rejected by Johns Hopkins. Thereafter, Vendor will issue a new, corrected invoice to Johns Hopkins for payment. Invoices containing more than one Purchase Order shipment must be itemized by Purchase Order numbers. Vendor shall issue any and all invoices within six (6) months of issuance of each Purchase Order in order to receive payment for same from Johns Hopkins. Payment by Johns Hopkins shall be NET 60 days from the date of receipt of Vendor’s invoice.
3. **Shipments and Delivery of Products.** Products will be delivered, F.O.B. Destination (shipment, handling, insurance pre-paid by Vendor) no later than the delivery date indicated on the Purchase Order. Vendor will provide Johns Hopkins with immediate notice of any out-of-stock inventory identified on a Purchase Order. No substitutions are allowed without the prior written consent of Johns Hopkins. All Products must be shipped in their original packaging and Vendor will make all commercially reasonable efforts to consolidate multiple orders in a single shipment. Cost of special delivery and/or air shipments must be authorized in advance by Johns Hopkins, prepaid by Vendor and identified as a separate line item on Vendor’s invoice. A packing slip or shipping documentation must be attached to the exterior packaging of each shipping container to identify the content’s Purchase Order number(s), contents and quantity, and to indicate partial shipments.
4. **Most Favored Customer Pricing.** Vendor will provide Johns Hopkins the most favored customer pricing for the Products as Vendor quotes to other customers purchasing comparable quantities. Vendor will notify Johns Hopkins of any reduction in the price of any Products and provide Johns Hopkins with a price reduction that is comparable to the largest price reduction given to its other customers purchasing comparable quantities. Vendor will issue Johns Hopkins either a full refund or credit for any Products returned to Vendor pursuant to this Agreement.
5. **No Taxes.** Johns Hopkins represents that it is a tax-exempt corporation under Sections 501(a) and 501(c)(3) of the Internal Revenue Code of the United States, as amended, and under applicable laws of the State of Maryland. A copy of the tax exemption certificate for the appropriate Johns Hopkins entity, issued by the State of Maryland, will be provided upon request. Vendor shall take all action required to cause Johns Hopkins's purchase of the Products to be treated as tax-exempt transactions, and in no event shall Johns Hopkins be responsible for any sales, use, property, gross receipts, or similar taxes levied against any party to this Agreement.
6. **Indemnification on Intellectual Property Claims.** Vendor shall defend, indemnify and hold harmless Johns Hopkins and its subsidiaries or affiliates, and their trustees, officers, employees and agents, against any and all losses, liabilities, judgments, awards and costs (including legal fees and expenses) arising out of or related to any claim that Johns Hopkins’ use or possession of the Products pursuant to and for the purposes set forth in this Agreement infringes or violates the copyright, trade secret, trademark, United States patent, or other proprietary right of any third party. Vendor shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that Johns Hopkins gives Vendor (i) the sole right to control and direct the investigation, preparation, defense, and settlement of any such claim, (ii) prompt notice of any claim, provided, however, that Johns Hopkins’ failure to give prompt notice to Vendor of any such claim shall not relieve Vendor of any obligation hereunder except and to the extent that such failure prejudices Vendor’s ability to defend against such claim, and (iii) its cooperation and assistance with the investigation, defense or settlement of the claim. No settlement that prevents Johns Hopkins from continuing to use the Products, as provided herein, shall be made without Johns Hopkins’ prior written consent. Johns Hopkins shall, at its own cost and expense, have the right to participate in the defense of any suit or proceeding through counsel of its own choosing. In the event the Products, or any part thereof, are held to constitute such an infringement and its use enjoined, then Vendor shall, at Johns Hopkins’ option, and at Vendor’s expense, either procure for Johns Hopkins the right to continue using these Products, replace or modify the Products with a non-infringing version, or remove the Product and refund the purchase price.

7. General Indemnification. Vendor shall defend, indemnify and hold Johns Hopkins, and its subsidiaries or affiliates, and their trustees, officers, employees and agents, harmless from any and all loss, lawsuit, liability, damage, cost and expense (including legal fees) which may arise out of or result from: (i) claims by third persons against Johns Hopkins that the Products provided hereunder cause damage to property or bodily injury (including death), or (ii) the willful misconduct or any acts or omissions of Vendor, its agents or employees in connection with this Agreement, or (iii) any defect in the Products, or (iv) any breach or default in the performance of Vendor's obligations. The provisions of this Section 7 shall survive termination of this Agreement. Vendor's indemnification obligation hereunder shall not apply to the extent that any claim is caused by the negligence or misconduct of Johns Hopkins.

8. FDA Recall of Products. If recall or modification of any of the Products is required by the FDA or voluntarily recommended or required by the Vendor, Vendor shall, at its sole cost and expense, immediately notify Johns Hopkins in writing of such recall or modification; remove, package, and ship to Vendor's plant the affected Product(s); and at no additional charge to Johns Hopkins replace such Product(s) with Vendor Products which have been evaluated and accepted by Johns Hopkins as clinically comparable. All recall notices must be immediately faxed to Johns Hopkins Risk Management Department at: 410-614-3678.

9. FDA Compliance. Vendor shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances, and represents that it shall have obtained all licenses and permits required by law to engage in the activities necessary to perform its obligations under this Agreement. Vendor hereby represents and warrants that all Products provided to Johns Hopkins hereunder have appropriate documentation in conjunction with FDA regulations, and copies of the approval or clearance documentation issued to Vendor by the FDA will be provided to Johns Hopkins, upon request.

10. Confidentiality. "Confidential Information" refers to any (i) technical or design information related to the Products; (ii) business or financial information, including but not limited to product plans, costs or prices; and (iii) any information designated by a party as confidential or proprietary. The parties shall hold in confidence any information designated by a party as Confidential Information and will exercise the same degree of care to protect it from disclosure that it uses to protect its own Confidential Information of similar importance. Each party shall only use the other party's Confidential Information as necessary to perform its obligations hereunder and will return or destroy it at the request of the disclosing party or upon the termination or expiration of this Agreement. Confidential Information does not include information: (i) otherwise available from a third party, without any limitations on its use, distribution or disclosure; (ii) in the public domain; or (iii) known to the receiving party prior to its disclosure, as evidenced by written records. The parties hereby covenant that they shall not disclose Confidential Information to any third party without prior written authorization of the disclosing party. Vendor further agrees not to disclose or use the name of Johns Hopkins in any publication or any articles, advertising or publicity without the prior written consent of Johns Hopkins.

11. Warranties.

(a) Warranty of Products. Vendor warrants that all Products provided hereunder are of clear title, free of any liens and encumbrances and free from defects in material and workmanship and will conform to its written product specifications. Vendor further warrants that the Products are merchantable and will conform to any express warranties made by affirmation, promise, description or sample. Johns Hopkins will notify Vendor of any known or reported defect constituting a breach of the foregoing warranties. Vendor will provide Johns Hopkins, at no additional charge to Johns Hopkins, a toll free customer support telephone number available twenty-four hours per day, seven days per week to report problems with or defects in the Products and will make every commercially reasonable effort to immediately respond to any reports of problems with any of the Products.

(b) Software Warranty. In the event any Products are accompanied by or embedded with software, Vendor warrants that the software: (i) is free from defects in material and workmanship and will substantially conform to its written product descriptions and any technical specifications and (ii) does not contain any virus, worm, timer or clock that would erase data or programming or otherwise cause the software to become inoperable. Vendor further agrees to provide Johns Hopkins, at no additional charge, any and all routine changes, updates and maintenance

services intended to provide general improvements to the performance of the Products or as may be required for compliance with applicable government regulations.

(c) Additional Warranties. Vendor further warrants to Johns Hopkins, as follows: (i) any technical support or services will be performed in accordance with industry practices, in a professional manner by properly trained and suitably skilled personnel, (ii) Vendor is a corporation duly organized and in good standing under the laws of the jurisdiction of its incorporation, with full corporate power and authority to conduct its business in the manner contemplated by this Agreement and (iii) Vendor is not sanctioned or excluded from participating in any federally funded health care programs, as provided in Sections 1128 and 1128A of the Social Security Act, 42 U.S.C. §1320a-7a. Vendor shall notify Johns Hopkins immediately in the event it becomes sanctioned or excluded from any federally funded health care program(s). Such notification shall include the grounds for sanction or exclusion and the duration thereof.

12. Insurance. Vendor shall maintain in full force and effect, at its sole expense, policies of general liability and product liability insurance in the minimum amount of Five Million Dollars (\$5,000,000) for each claim for each policy year to insure Johns Hopkins, its officers, trustees, employees and agents against any claim or claims for damages resulting, directly or indirectly, from the intentional or negligent acts of Vendor in connection with the performance of its obligations under this Agreement or the defective performance of any of the Products. All such insurance policies shall provide that they will not be canceled without providing at least thirty (30) days prior written notice to Johns Hopkins.

13. Product Demonstrations. Prior to any contact with Johns Hopkins patients, an employee of Vendor must submit to Johns Hopkins: (i) evidence of HBV vaccination or a declination form; (ii) proof of completion of blood-borne pathogen safety training, per OSHA regulations, in effect; and (iii) proof of a negative tuberculin test.

14. Access to Books and Records. "Pursuant to 42 U.S.C. 1295x(1) (I) and 42 C.F.R. § 420.302 if the value or cost of services, goods or products rendered to Buyer by Company or by an organization related to the Company is Ten Thousand Dollars (\$10,000) or more over any twelve (12) month period during the term of this Agreement, Company and Buyer agree that until the expiration of four (4) years after the furnishing of such services, goods or products, Company and Buyer shall, upon written request, make available to the Secretary of the Department of Health and Human Services of the United States (the "Secretary"), the Secretary's duly authorized representative, the Comptroller General, or the Comptroller General's duly authorized representative, such books, documents and records as may be necessary to certify the nature and extent of the costs of such services, goods or products.

15. Notices. All legal notices and other communications must be in writing and will be considered given upon (i) delivery by hand or (ii) one (1) day after delivery by receipted overnight delivery courier, or (iii) three (3) days after mailed by certified or registered mail, return receipt requested, with postage prepaid to the parties at the addresses set in the Agreement, with a copy to Johns Hopkins at: 733 N. Broadway, Suite 102, ATTENTION: General Counsel, Baltimore, Maryland 21287-1900.

In the event of any recall notice issued by Vendor or the FDA, Vendor shall send such notice to Johns Hopkins, Attention: Risk Management Department, Facsimile Number 410-614-3678.

16. Vendor Full Disclosure Statement. Vendor will execute the Vendor Full Disclosure Statement, attached hereto as Attachment 1. The proper execution and delivery of the Vendor Full Disclosure Statement is a condition precedent to Johns Hopkins' obligations under this Agreement.

17. No Modification. This Agreement may not be modified except by a written document executed by both parties. Vendor may not assign any of its rights or obligations hereunder without the prior written consent of Johns Hopkins. The provisions of this Agreement shall be binding upon and inure to the benefit of Johns Hopkins and Vendor, their respective successors and permitted assigns. All rights, remedies and powers of Johns Hopkins are irrevocable and cumulative and not alternative or exclusive, and shall be in addition to all other rights, remedies and powers to which it may be entitled at law or in equity. This Agreement may be executed by counterparts or duplicate originals, all of which shall be regarded as one and the same instrument.

18. Construction and Jurisdiction. This Agreement shall be governed by the laws of the State of Maryland (excepting any conflict of laws or provisions which would serve to defeat application of Maryland substantive law). Each of the parties to this Agreement hereby irrevocably and unconditionally: (i) consents to submit to the exclusive jurisdiction of the courts of Howard County, Maryland for any proceeding arising in connection with this Agreement and each such party agrees not to commence any such proceeding except in such courts, and (ii) waives any objection to the laying of venue of any such proceeding in the courts of Howard County, Maryland. If for any reason venue is not accepted in Howard County, the parties irrevocably consent as provided in this Section to the exclusive jurisdiction of the courts of Baltimore County, Maryland. EACH PARTY, KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, WAIVES ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING WITH RESPECT TO THIS AGREEMENT OR ANY MATTER RELATED IN ANY WAY THERETO.

19. Miscellaneous.

(a) This Agreement, including these Terms, constitute the final, complete and exclusive agreement between the parties with respect to the purchase and sale of the Products and shall supersede all prior or contemporaneous agreements between the parties, whether written or oral, including those terms and conditions which may be included in a proposal, price quotation or an order acknowledgement.

(b) If any portion of this Agreement is held invalid or unenforceable, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part, will remain in full force and effect to the extent it is not held invalid or unenforceable. The invalid or unenforceable provision shall be changed and interpreted so as to best accomplish its intent within the limits of the applicable law.

(c) No waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver.

(d) Any provisions, which, by their nature are intended to survive the termination or expiration of this Agreement, will survive its termination or expiration, including each party's confidentiality and indemnification obligations and any warranties.

(e) Vendor certifies that it is in compliance with and agrees to be bound by affirmative action clauses set forth in 41 CFR §60-1.4 (addressing race, sex, color, religion, and national origin), 41 CFR §60-250.4 and 41 CFR §60-250.5 (addressing veteran status), and 41 CFR §60-741.4 and 41 CFR §60-741.5 (addressing disabilities).

(f) The provisions of Sections 6, 7, 10 and 11 shall survive the expiration or termination of this Agreement.

20. Conflict. THESE TERMS SHALL SUPERSEDE ANY AND ALL TERMS AND CONDITIONS SET FORTH IN VENDOR'S INVOICE OR POLICY OR ANY OTHER AGREEMENT, INCLUDING VENDOR'S PRICE QUOTATION OR PROPOSAL, AND IN THE EVENT OF ANY CONFLICT BETWEEN ANY SUCH TERMS AND CONDITIONS, THESE TERMS SHALL APPLY.

VENDOR: \_\_\_\_\_

NAME OF AGREEMENT OR PURCHASE ORDER NO.: \_\_\_\_\_

DATE OF AGREEMENT OR PURCHASE ORDER: \_\_\_\_\_

JH ENTITY: \_\_\_\_\_